



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,077	03/15/2001	Rossella De Benedittis	3606-0113P	2300

2292 7590 08/24/2004

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

WILSON, ROBERT W

ART UNIT	PAPER NUMBER
----------	--------------

2661

DATE MAILED: 08/24/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/744,077

Applicant(s)

DE BENEDITTIS ET AL.

Examiner

Robert W Wilson

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2661

DETAILED ACTION

1.0 The application of De Benedittis et. al. entitled "METHOD AND DEVICE FOR THE ANTENNA SELECTION IN A DIGITAL TELECOMMUNICAITON SYSTEM" which was filed on 3/15/2001 and claims priority based upon Italy MI 98 S 001674 dated 07/21/1998 was examined. Claims 1-10 are pending.

Claim Rejections - 35 USC § 112

2.0 The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected relative to 112/ 2nd paragraph because the metes and bounds of the claims cannot be assessed.

Referring to Claim 1, the applicant uses "and/or" on Page 11 lines 12-14. What is meant by "and/or"? The applicant uses "in the affirmative case, verifying if the power variability between different" on Pg 11 line 25. What is meant by "affirmative case" of what?

The applicant usage of "f) if the verification according to the previous step e) has a negative result, stating the selection of the antenna/s applying a criterion which takes into consideration the comparison according to the previous step e ". This step is confusing. What is meant by this step.

The applicant uses "i.e. means adapted to" per Pg 11 line 8. What is meant by "i.e. means adapted to"?

Referring to Claim 6, What is meant by "the negative case"?

Referring to Claim 7, What is meant by "bearer handover"?

Referring to Claim 10, What is meant by "adapted to" per Pg 13 line 5? What is meant by "and/or" per Pg 13 lines 9-11.

Referring to Claim 10, It is unclear whether the applicant is claiming a device or a method.

Claim Objections

3.0 Claim 10 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the

Art Unit: 2661

claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Conclusion

4.0 The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Morris; U.S. Patent No.: 6,032,033 dated 2/29/2000 in which he discloses method for selecting an antenna by utilizing a correlator to detect a sync signal and subsequently measuring RSSI for two different antennas wherein the values of RSSI are stored in a table and subsequently a decision is made based upon a criteria for antenna selection. The difference between this reference and the applicant is that the applicant makes RSSI measurements when correlation has failed whereas the prior art makes RSSI measurements after the correlator successfully determines the presence of a sync signal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W Wilson whose telephone number is (703) 305-4703.

The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas Olms can be reached on (703) 305-4703. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



Robert W Wilson
Examiner
Art Unit 2661

Application/Control Number: 09/744,077

Page 4

Art Unit: 2661

RWW

August 5, 2004

A handwritten signature in black ink, appearing to be 'D.M.' or similar, written in a cursive style.

DANIELSON
PATENT ATTORNEY